

January 16, 1939

Hon. Charles T. Banister
Criminal District Attorney
Navarro County
Corsicana, Texas

Dear Sir:

Opinion No. 0-145
Re: Article 1055, C. C. P.

Your request for an opinion upon the question:

"Whether county auditor has right to withhold
misdemeanor fees in cases where defendants pay their
fines by serving time in jail and when may he stop
payment of such fees?"

has been received by this Department.

You are respectfully advised that constables, sheriffs, county attorneys and witnesses are not entitled to receive one-half of their fees from the county where defendants pay their fines by serving time in jail. This department on January 11, 1939, ruled that the amendment to Article 1055 of the Code of Criminal Procedure of Texas, amendment being H. B. No. 727 of the Regular Session of the 45th Legislature of Texas, was void, being in contravention of Section 33, of Article 3 of the Constitution of Texas. A copy of this opinion is herewith enclosed which is self-explanatory and to which reference is here made for all purposes.

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Wm. J. Fanning
Assistant

WJF:AW

ENCLOSURE

APPROVED:

ATTORNEY GENERAL OF TEXAS